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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 CAROLINE JOANNE HERRLING,  
16 aka Carrie Phenix,  
aka Caroline Gardiner,

17 Defendant.  
18

**No. 2:23-MJ-165-DUTY**

**GOVERNMENT'S SUBMISSION IN SUPPORT  
OF REQUEST FOR DETENTION**

Hearing: January 17, 2023  
2:00pm  
Courtroom 880, Roybal

19 **INTRODUCTION**

20 Defendant CAROLINE JOANNE HERRLING, aka "Carrie Phenix," aka  
21 "Caroline Gardiner" ("defendant") has been charged with a years' long  
22 conspiracy to commit wire fraud, aggravated identity theft, and  
23 possession with intent to distribute heroin and methamphetamine,  
24 among other drugs. As explained below, defendant presents a risk of  
25 both flight and obstruction of justice, and a danger to the  
26 community, and therefore should be detained.  
27  
28

1 **I. Legal Standards**

2 The Bail Reform Act of 1984 (the "Act") requires pretrial  
3 detention of a defendant where "no condition or combination of  
4 conditions will reasonably assure the appearance of the person as  
5 required and the safety of any other person and the community." 18  
6 U.S.C. § 3142(e). Courts must consider several factors when  
7 determining whether there are conditions that could reasonably assure  
8 the appearance of defendant and the safety of the community,  
9 including: (1) the nature and seriousness of the offense charged;  
10 (2) the weight of the evidence against defendant; (3) the defendant's  
11 character, physical and mental condition, family and community ties,  
12 past conduct, history relating to drug or alcohol abuse, and criminal  
13 history; and (4) the nature and seriousness of the danger to any  
14 person or to the community that would be posed by the defendant's  
15 release. 18 U.S.C. § 3142(g); United States v. Winsor, 785 F.2d 755,  
16 757 (9th Cir. 1986).

17 Detention is appropriate where a defendant is either a danger to  
18 the community or a flight risk; it is not necessary to prove both.  
19 United States v. Motamedi, 767 F.2d 1403, 1406 (9th Cir. 1985);  
20 United States v. Kouyoumdjian, 601 F. Supp. 1506, 1508-10 (C.D. Cal.  
21 1985). A finding that a defendant is at risk of flight need only be  
22 supported by a preponderance of the evidence. 18 U.S.C. § 3142;  
23 United States v. Gebro, 948 F.2d 1118, 1121 (9th Cir. 1991).  
24 Furthermore, the Ninth Circuit has made clear that economic danger  
25 can be a basis for detention. United States v. Reynolds, 956 F.2d  
26 192 (9th Cir. 1992); see also United States v. Possino, No. CR 13-  
27 0048-SVW-3 (JEM), 2013 WL 1415108 (C.D. Cal. Apr. 8, 2013); United  
28 States v. Cohen, 2010 WL 5387757 (N.D. Cal. Dec. 10, 2010).

1 A bond will not mitigate the risk of danger. S. Rep. No. 225,  
2 98th Congress, 1st Sess. 1983, 1984 U.S.C.A.N. 3182, 3198-99 (n.60)  
3 (Congress finding that "a defendant who is a danger to the community  
4 remains dangerous even if he has posted a substantial money bond")."  
5 See also United States v. Rodriguez, 950 F.2d 85, 89 (2d Cir. 1991)  
6 ("\$100,000 security bond, cosigned by two financially responsible  
7 persons, strict pretrial service agency supervision and restriction  
8 of travel" and the "existence of four cosigners and \$10,000 cash may  
9 assure the appearance of [defendant] at trial but will not secure the  
10 safety of the community").

11 The Ninth Circuit has recognized that where a defendant has  
12 access to vast sums of cash, any proposed bail amount is likely to be  
13 illusory. United States v. Townsend, 897 F.2d 989, 996 (9th Cir.  
14 1990) ("The purpose of bail is not served unless losing the sum would  
15 be a deeply felt hurt to the defendant and his family; the hurt must  
16 be so severe that defendant will return for trial rather than flee").

17 Here, the court already determined that there was probable cause  
18 to believe that defendant violated 21 U.S.C. §§ 841(a)(1) and  
19 (b)(1)(C). Even if the weight of the substances seized were  
20 infinitesimal, that would nonetheless carry a statutory maximum  
21 penalty of 20 years in prison. Where there is probable cause to  
22 believe a defendant committed an offense for which a maximum  
23 imprisonment of ten years or more is prescribed in the Controlled  
24 Substances Act, there is a rebuttable presumption that no condition  
25 or combination of conditions will reasonably assure defendant's  
26 appearance as required or the safety of the community. 18 U.S.C. §  
27 3142(e)(3).

1 **II. Defendant Is a Danger**

2 Defendant's last two known victims died under dark  
3 circumstances. Charles Wilding's body has never been found despite  
4 efforts to do so spanning two years. All that is clear about his  
5 disappearance is that defendant was in control of disposing of the  
6 contents of his residence, and that thereafter defendant repeatedly  
7 and inconsistently lied to the police, lawyers, and the courts about  
8 where Wilding was, and manufactured false evidence that he was alive  
9 and she was in contact with him. (Aff. ¶¶ 9-41, 49.)

10 Robert Tascon died of a gunshot wound to the head after  
11 complaining that he had been defrauded out of his one asset, a home  
12 he had inherited. It is undisputed that defendant received at least  
13 \$950,000 from the sale of that home even though she could not come up  
14 with any justification for having received such a windfall. Indeed,  
15 before the agents confronted defendant with documentary evidence that  
16 she had used to proceeds of Tascon's property to purchase her own  
17 personal house—which precipitated her admission of the same—she  
18 claimed that her only involvement in the sale was driving Robert  
19 Tascon to the notary, for which she thought she had been paid about  
20 \$150. (Aff. ¶¶ 60-74.)

21 Even assuming that Tascon committed suicide—and there was no  
22 suicide note, no witnesses, and the last person to see Tascon alive  
23 said he was in fine spirits (Aff. ¶ 69)—his death would show the  
24 extraordinary danger defendant poses to the community. Identity  
25 theft is a devastating crime, and stripping a troubled man of his  
26 only asset could push him over the edge.

1 Of course the danger defendant poses to the community is also  
2 economic. While her documented history of fraud in this case proves  
3 that she has long posed an economic danger to the community in the  
4 past, evidence discovered at her house shows she planned to continue  
5 it. She possessed special equipment to age paper (the better to make  
6 recent forged wills appear old an authentic), copy signatures, and a  
7 variety of stolen and forged identity documents. Her digital devices  
8 also had recent searches for "obituary" combined with "millionaire"  
9 which shows how she located victims for her scheme. She also  
10 possessed a spreadsheet that listed these persons, their assets, and  
11 whether or not they had known heirs, so that she could pick the  
12 richest and easiest targets. (Aff. ¶ 101). Defendant admitted that  
13 she is in the process of liquidating the valuables she gained through  
14 the (forged) Lowenstein will. (Aff. ¶ 80.)

15 Defendant also possessed distribution quantities of heroin and  
16 methamphetamine, among other drugs (Aff. ¶¶ 84-88), a variety of  
17 firearms, and multiple counterfeit or stolen law enforcement badges.  
18 In total, there were 16 firearms in her house. Just affixed to the  
19 back of her bedroom closet door were nine firearms, including assault  
20 rifles and shotguns. Some of the weapons were untraceable "ghost"  
21 guns without serial numbers. Many were loaded, including the pistol  
22 defendant kept in her purse. She had a ghost pistol beside her bed  
23 and another one in a secret stash that required magnets to open.  
24 Defendant admitted that she had some guns. (Aff. ¶¶ 92-96).  
25 Defendant's possession of so many loaded and untraceable firearms is  
26 particularly troubling because she had counterfeit badges for the  
27 DEA, U.S. Diplomatic Security Service, and Beverly Hills Police  
28

1 Department, suggesting that she passed herself off as law  
2 enforcement. (She admitted to owning the badges, but denied using  
3 them improperly). (Aff. ¶¶ 98-100.) Defendant's involvement with  
4 drugs, including her use of methamphetamine (Aff. ¶ 82), further  
5 suggests that her strewing loaded and unlocked firearms throughout  
6 her home was for a criminal purpose (Aff. ¶ 95) and in any event is  
7 extremely dangerous.

8 **III. Defendant Has Already Obstructed Justice and Will Continue to Do**  
9 **So**

10 Defendant's specialty is obstruction of justice. She uses  
11 sophisticated forgeries, power of attorney, identity theft, and fake  
12 notary stamps in order to manipulate lawyers, courts, and other  
13 victims into giving her control of a victim's assets. Further,  
14 whenever her scheme begins to unravel, she has one response: more  
15 obstruction of justice. First, defendant had the body of Charles  
16 Wilding disposed of to obstruct justice by hiding his death. Then  
17 when the police investigated Wilding's disappearance, defendant  
18 created a variety of sham addresses and telephone numbers for him to  
19 throw them off the trail, including purchasing a prepaid telephone  
20 for "Wilding" and setting up a Google Voice number to suggest he was  
21 alive. (Aff. ¶¶ 20, 41.) When that did not satisfy the police,  
22 defendant hired a man to lie to them as a purported eyewitness: he  
23 was supposed to tell the authorities that Charles Wilding was alive  
24 and rich and had been living with him before going off to parts  
25 unknown. She also hired him to intimidate someone who had threatened  
26 to expose her scheme to the police. (Aff. ¶¶ 14-18.) Defendant also  
27 had someone pretend to be Wilding on multiple occasions, and even  
28 claimed herself to be his daughter when accepting service of process.

1 (Aff. ¶¶ 49-50.) Victims who know defendant and her associates  
2 described them as "dangerous." (Aff. ¶¶ 9, 33.)

3 **IV. Defendant Is a Flight Risk**

4 No combination of conditions will reasonably assure the  
5 appearance of defendant as required under 18 U.S.C. § 3142. First,  
6 defendant committed her fraud under the alias "Carrie Phenix"  
7 precisely to avoid being held responsible for her crimes. Second,  
8 defendant possessed multiple look-alike identity documents, including  
9 a U.S. Passport, all in the names of other individuals. (Aff. ¶ 83).  
10 Defendant could use similar identity documents to flee or to adopt a  
11 new identity, like her "Carrie Phenix" one, now that her given name  
12 is linked to this case. Third, defendant took over at least three  
13 real properties worth over \$5 million in total. While the  
14 investigators have attempted to locate for forfeiture the proceeds of  
15 defendant's scheme, they have been unable to do so with the exception  
16 of approximately \$409,235 from the Robert Tascon fraud that was used  
17 to purchase the house in defendant's name that contained the drugs,  
18 guns, and evidence of fraud. (Aff. ¶ 75(c).) Instead, the  
19 investigators have found a dizzying array of transfers to co-  
20 conspirators, including to straw accounts held in the names of  
21 identities defendant controls, such as Robert Tascon and Charles  
22 Wilding, which are now empty or nearly so. (Aff. ¶¶ 24, 42-46, 60-  
23 61, 64-65.) Defendant, therefore, has hidden resources which could  
24 be used to fund her flight.

25 **V. There Is No Reason to Believe Defendant Would Comply with Any**  
26 **Conditions of Release Imposed by the Court**

27 Defendant has a history of ignoring court orders, administrative  
28 actions, and criminal investigations. Indeed, the heart of her fraud

1 is conning courts into giving her control of the assets of victims,  
2 either as trustee or through power of attorney. (Aff. ¶¶ 23-27, 29,  
3 32-34, 38, 53-59, 60-69, 70-74.) Her promise to abide by court  
4 supervision now would be meaningless. Further, even after the state  
5 bar issued a "cease and desist" letter against her for the  
6 unauthorized practice of law, she continued to do so. (Aff. ¶¶ 64,  
7 76, 106.) Similarly, even while being investigated by the LAPD  
8 regarding the disappearance of Charles Wilding, defendant stole and  
9 sold Robert Tascon's property, leading to his demise. (Aff. ¶¶ 9-14,  
10 60-69.) And even while being sued over the fraudulent sale of Robert  
11 Tascon's property, defendant nonetheless hunted for still more  
12 victims. (Aff. ¶ 101.) Defendant's extraordinarily brazen and  
13 reckless crimes while under both investigation and "cease and desist"  
14 warnings show that she is simply incapable of conforming her actions  
15 to any kind of supervision--likely because of defendant's addiction  
16 to methamphetamine. Accordingly, there is no reason to believe that  
17 would comply with any conditions of the release that the Court might  
18 otherwise have been inclined to impose.

### 19 CONCLUSION

20 For all the reasons discussed above, the government respectfully  
21 requests that this Court find that defendant presents a risk of  
22 flight and danger to the community that cannot be mitigated by any  
23 bond or conditions of release, and order her detained.



1 Dated: January 17, 2023

Respectfully submitted,

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